



★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

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the Handbook

# **Chapter 5**

# **Accessibility**

June 2019

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## 5. Accessibility

<b>REQUIRED FORMS</b>  <a href="#">ELECT-310C-Accessibility-Accessibility-Checklist.docx</a>	<b>ADDITIONAL RESOURCES</b>  <a href="#">Flyer for Accessible Voting presentation.docx</a>  <a href="#">Request for Reimbursement SBE-626 Accessibility.docx</a> <a href="#">Checklist for Presentations.docx</a> <a href="#">MakingElectionsAccessible.pptx</a> <a href="#">press release.docx</a>
<b>REFERENCE</b>  <a href="#">Quick Start Guide – EAC 6 Tips</a> <a href="#">ADA Checklist for Polling Places</a> <a href="#">Virginia State Plan: Help America Vote Act of 2002</a> <a href="#">EAC Election Management Guide Chapter 19: Accessibility</a>	<b>REGULATIONS</b>  <a href="#">1 VAC 20-20-40 Virginia's Help America Vote Act Plan</a>

### 5.1 CHAPTER ORGANIZATION

Every qualified voter has the right to vote, regardless of whether he or she has a mental or physical disability or limited English proficiency. This chapter is designed to help electoral board members and general registrars ensure that reasonable accommodations are made for all voters in both the registrar's office and at the polling places. §5.2 lists the key federal and state laws undergirding accessibility in elections throughout the Commonwealth. §5.3 discusses the requirements in these laws, divided into subject matters such as voting equipment, polling place accessibility, requests for assistance, and curbside voting. §5.4 discusses officer of election training, as so many voter misunderstandings can be avoided by solid training to all officers of election on how to help voters with disabilities enjoy their voting experience. §5.5 and §5.6 address both the limitations of implementation and the enforcement mechanisms designed to ensure voters with disabilities are guaranteed an equal opportunity to vote. §5.7 lists local, state, federal and other public sector resources focused on elections accessibility issues. §5.8 discusses a few suggestions for localities seeking to implement accessibility improvements.

### 5.2 LEGAL BASIS

The following laws govern accessibility to polling places:



- The Voting Rights Act of 1965 (VRA)<sup>1</sup>
- Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA)<sup>2</sup>
- Title II of the Americans with Disabilities Act (ADA)<sup>3</sup> and Rehabilitation Act of 1973<sup>4</sup>

<sup>1</sup> See [52 U.S.C. §20102](#).

<sup>2</sup> See [52 U.S.C. §20101](#).

<sup>3</sup> See [42 U.S.C. §12101](#) et seq.

<sup>4</sup> See [29 U.S.C. §794](#).



- Help America Vote Act of 2002 (HAVA)<sup>5</sup>
- Virginians with Disabilities Act<sup>6</sup>
- The Code of Virginia, Title 24.2<sup>7</sup>

In addition, the United States Department of Justice has provided standards related to accessibility and a detailed checklist for evaluating polling place accessibility.<sup>8</sup>

## 5.3 REQUIREMENTS

### 5.3.1 General Assistance to Voters

State and local governments must give persons with disabilities equal opportunity to benefit from all programs, services, and activities. This includes voting. Government entities and employees must communicate effectively with persons who have hearing, vision, or speech disabilities, ensure that buildings in which services are provided are accessible, and provide opportunities to request aids and services.<sup>9</sup> Any voter requiring assistance may receive it from a person of the voter's choosing ("other than the voter's employer or agent of that employer or agent of the voter's union").<sup>10</sup>

### 5.3.2 Voting Equipment

The Help America Vote Act (HAVA) requires voting systems to be accessible to individuals with disabilities in a private and independent manner, including non-visual access.<sup>11</sup> Virginia law mandates that voting equipment provide alternative language accessibility when a federal coverage determination has been made.<sup>12</sup> These federal and state requirements override Virginia's general statutory rule declaring English the official language with provisions that alternative language materials are discretionary.<sup>13</sup>



#### Law Note

Not all voting machines are wheelchair-accessible. Each polling place must **have at least one piece of voting equipment that permits a voter with a disability to cast his or her ballot in a private and independent manner.**<sup>14</sup> The voting booth provided for persons casting provisional ballots should also be accessible. This should be a table that can accommodate a wheelchair. The table should be at least 30 inches wide, with a surface no more than 27 inches high, and an underneath clearance of at least 19 inches. If a voter with a disability wishes to vote on an inaccessible machine instead, he or she may request assistance.

<sup>5</sup> See [52 U.S.C. §20901](#).

<sup>6</sup> See the Code of Virginia [§51.5-1](#) et seq.

<sup>7</sup> See the Code of Virginia §24.2.

<sup>8</sup> See [ADA Checklist for Polling Places](#).

<sup>9</sup> See [https://www.ada.gov/ada\\_title\\_II.htm](https://www.ada.gov/ada_title_II.htm).

<sup>10</sup> [52 U.S.C. §10508](#); see the Code of Virginia §§24.2-649, 24.2-704.

<sup>11</sup> See generally HAVA [52 U.S.C. §20101](#) et seq. See also Chapter 15 Recounts and Contested Elections for more information on accessible voting machines.

<sup>12</sup> See the Code of Virginia §24.2-626.1. Currently only Fairfax County is required to provide a language accommodation.

<sup>13</sup> See the Code of Virginia [§1-511](#).

<sup>14</sup> See the Code of Virginia §24.2-626.1.



HAVA and the Code of Virginia require **at least one voting machine** in every precinct that provides non-visual voting access.<sup>15</sup> **Voting equipment with audio capability for use by blind voters has been certified for use in Virginia.**<sup>16</sup> **For those with limited sight, the locality should make magnifiers available at each polling place or at each voting station.** For most voting equipment, magnifying sheets tend to work better than magnifying glasses with handles. Magnifying sheets are relatively inexpensive and available in many stores or catalogs.

### 5.3.3 Communications

All media materials concerning voter registration or voting which are distributed or published by the registrar's or electoral board's office or local governing body should prominently display the registrar's office email address. This will allow better online communication with voters who have hearing disabilities. It is strongly recommended that the general registrar use an official email address that is generic in nature and not based on the name of an individual. Using individual names can cause confusion when the individual is absent or retires, and the voter may still retain an old email address in their records or email address book.

Every registrar and electoral board member should actively publicize the availability of absentee ballots, curbside voting, and the right to ask for assistance. It is important to ask the voters directly what works for them with sensitivity to individual differences.

#### 5.3.3.1 Website

When a voter looks up his or her polling place on the ELECT website, the accessibility information entered in VERIS will be displayed.

#### 5.3.3.2 TDD

Telecommunications devices for the deaf ("TDD") are another way for people to communicate and obtain information about registering and voting. A telecommunication device for the deaf (also referred to as "TT" or "TTY") is a telephone system in which a typewritten message is transmitted over telephone lines and is received as a printed message. Many localities have a TDD line for government offices. If the locality doesn't have a TDD line, instruct voters to use the ELECT TDD line. Or, use the TDD number of the Virginia Relay Center – a service designed specifically for TDD users, government agencies and other service providers. Speech-to-speech relay enables a person with speech impairment to converse on the telephone via a trained communication assistant. To access these services call the following numbers:

- ELECT TDD: 711
- VIRGINIA Relay Center: 1-800-229-5746 or just "711"

#### 5.3.3.3 Signage

Signs instructing voters where to park, where to enter and exit the polling place, and which table to go to help reduce the verbal communication required for a voter with a hearing disability. These aids are also required for election day. "The electoral board or the general registrar [must] provide and have posted outside each polling place appropriate signs to

<sup>15</sup> See the Code of Virginia §24.2-626.1.

<sup>16</sup> See Chapter 4 Voting Equipment for more information.



direct people with disabilities and elderly persons to any [...] entrance designed for their use.”<sup>17</sup> Further, printed instructions for checking in at the pollbook table and for the use of voting equipment should be prominently displayed at the level where persons with disabilities can read.

#### 5.3.4 Minority Language Provisions

If the illiteracy rate of the minority group is higher than the national illiteracy rate and one of the following thresholds is met within that jurisdiction, the jurisdiction is required to provide all election information directed to English speaking voters in the covered minority language as well. Thresholds:<sup>18</sup>

- More than 10,000 of United States citizens of voting age residing there belong to a single language minority and are limited English proficient,
- More than five percent of United States citizens of voting age residing there belong to a single language minority and are limited English proficient,
- More than five percent of American Indian citizens of voting age residing on an Indian reservation within the jurisdiction belong to a single language minority and are limited English proficient.

#### 5.3.5 Voter Registration Facility Accessibility

A reasonable number of permanent registration facilities used in federal elections must be accessible to the elderly (defined as 65 years of age or older) and people with physical disabilities. This requirement is not binding in Virginia because we allow potential voters to register by mail.<sup>19</sup>

#### 5.3.6 Polling Place Accessibility

Polling places are required to be accessible by the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act and Title II of the Americans with Disabilities Act.<sup>20</sup> **Make sure that any new polling place is accessible or can be made so before recommending it to the local governing body.** The local governing body is required to provide “adequate facilities at each polling place for the conduct of elections”.<sup>21</sup> For the purpose of this law, ELECT interprets adequate facilities to include buildings that are physically accessible to persons with disabilities.



The **electoral board must conduct an Accessibility Survey every time the locality approves a new polling place** or there is a change in accessibility at an existing polling place. Localities must send a copy of each survey to ELECT, and keep the original on file at the local elections office.<sup>22</sup> Periodically resurvey the accessibility of polling places. Just because a polling place was accessible

<sup>17</sup> See the Code of Virginia §24.2-604.1.

<sup>18</sup> For more information about minority language provisions and thresholds, see the U.S. Dep’t of Just. [website](#).

<sup>19</sup> *Krieger v. Loudon County*, 2014 United States Dist. LEXIS 138293 (W.D. Va. Sept. 30, 2014).

<sup>20</sup> See the Code of Virginia §24.2-310(C).

<sup>21</sup> See the Code of Virginia §24.2-310(B).

<sup>22</sup> A suggested survey form is included in the Forms Warehouse under [Accessibility Materials](#).



last year, does not mean it will be so this year. For example, tree limbs could grow back, concrete could develop breaks, and parking signs may be removed. Investing a little time before each election can pay great dividends in preventing complaints about some new accessibility barrier at a previously accessible polling site.

Local electoral boards are authorized to use an alternative polling place if an emergency makes a polling place unusable or inaccessible.<sup>23</sup> The electoral boards must provide notice to the “voters appropriate to the circumstances of the emergency.”<sup>24</sup> ELECT must approve all emergency polling location changes.<sup>25</sup>

When entering polling place information into VERIS, the registrar must check whether the polling place has met ADA standards and include a comment detailing the level of compliance. If an existing polling place is found to be inaccessible then take the following steps:

- Notify the local governing body that the locality’s polling place is in violation.
- Determine whether reasonable permanent or temporary changes can be made to make the site accessible.
- If the site cannot be made accessible through reasonable means, survey the precinct and the adjoining area within one (1) mile of the precinct boundary in an attempt to find an alternative site to recommend that is accessible or can be made temporarily accessible on election day.
- The accessibility status of each polling place in the locality should always be updated in VERIS.

The following exceptions may be granted under United States and Virginia law:

- If an alternate site is in a private facility normally ineligible for polling place selection, the registrar may request that ELECT approve its use on an emergency basis due to unavailability of any other building meeting accessibility requirements.<sup>26</sup>

#### 5.3.6.1 *Parking Spaces*

If parking is provided for voters, then accessible parking must also be provided at a ratio of one (1) accessible space for every 25 spaces in the parking lot. To be considered accessible, a parking space must meet the following criteria:<sup>27</sup>

- At least 12 feet wide.
- An access aisle that is 5 feet wide for car spaces and 8 feet wide for van spaces (all parking lots must have at least one van accessible space).
- Marked with an upright sign with the symbol of accessibility on it (the bottom edge of the sign must be between 48 and 72 inches above the pavement; marking a space on the pavement is often useful, but does not satisfy federal requirements).
- Located close to the entrance of the polling place.
- Connected by an accessible route to the accessible entrance.
- Relatively level in all directions and firm, stable surface.

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<sup>23</sup> See the Code of Virginia §24.2-310(D).

<sup>24</sup> See the Code of Virginia §24.2-310(C), (D).

<sup>25</sup> *Id.*

<sup>26</sup> See the Code of Virginia §24.2-310.1.

<sup>27</sup> See ADA [Requirements](#) for Accessible Parking.



Accessible parking spaces may be temporarily created for election day using portable signs and traffic cones.

#### 5.3.6.2 Signage

No special signs are required at buildings where all voters (those with disabilities and those without) use the same entrance on election day. However, if the accessible voting entrance is separate from the main voting entrance, then the following standards apply:<sup>28</sup>

- The accessible entrance must be marked by the symbol of accessibility.
- All other entrances must have directions to the accessible entrance.

#### 5.3.6.3 Curbs and Ramps

Temporary ramps may be used on election day. However, a better solution is to work with the owner of the building to establish reasonable accessibility. Ramps are necessary where there are steps into the building or inside the building. Permanent ramps are obviously the best option, but temporary ramps can also work when necessary. They can be purchased or rented from a variety of vendors in compliance with the locality purchasing procedures.

Curbs or ramps in the path of travel must generally have the following features:<sup>29</sup>

- They must be at least three feet (36 inches) wide not including any flared sides.
- They should have a stable, firm, slip-resistant walking surface.
- They should have a slope that rises or falls no more than one (1) foot in height for every 12 feet in length (the 1' in 12" rule).
- They should have a relatively level cross slope (the slope perpendicular to the direction of the walkway).
- If a ramp is more than six inches off the ground, it must have handrails on both sides.
- They cannot have openings greater than ½ inch wide.

#### 5.3.6.4 Walkways (Inside & Out)

To be considered accessible, a walkway must meet the following criteria:<sup>30</sup>

- It must be at least three feet (36 inches) wide.
- It should have a slope that rises or falls no more than one foot in height for every 12 feet in length.
- It should have no edges that could cause a person or service animal to trip or fall.
- It should have a relatively level cross slope (the slope perpendicular to the direction of the walkway).
- It should be made of a smooth, consistent material, i.e. no loose gravel or dirt;
- It should have headroom in the pathway of at least 80 inches from the surface.
- It cannot have openings greater than ½ inch wide.
- It cannot have abrupt changes in level greater than ½ inch tall unless a ramp is provided. Sudden changes in height less than ¼ inch tall are always acceptable; however, changes between ¼ inch and ½ inch can be beveled at a slope no greater than 1:2.

<sup>28</sup> See [ADA Checklist for Polling Places](#).

<sup>29</sup> *Id.*

<sup>30</sup> See [ADA Checklist for Polling Places](#).





- The 1' in 12" rule applies to all standards of accessibility for walks, ramps, etc.

#### 5.3.6.5 *Protrusions*

Items sticking out from walls (such as fire extinguishers) pose a threat to both blind voters – who cannot detect them with a cane – and to those with limited sight. Items mounted on walls between 27 and 80 inches off the floor cannot protrude more than 4 inches from the wall.

A temporary solution is to place a large item on the floor (such as a potted plant) below the protruding item to make it detectable with a cane. A permanent solution is to build protruding walls on either side of the item or lower the item so that it is no more than 27 inches above the floor.<sup>31</sup>

#### 5.3.6.6 *Doors and Doorways*

Doors are among the most common accessibility barriers in polling places. For people in wheelchairs, an inaccessible door can defeat hard work getting out of a vehicle, through the parking lot, and up the walk. Several features can make a door inaccessible:

- Round doorknobs are difficult for people with limited use of their hands. Replace with ADA compliant hardware.<sup>32</sup> If they can't be replaced, buy levers that fit over round doorknobs.
- Interior doors must be operable with 5 pounds of force or less. As a temporary fix, prop the door open or station an election official (or election page) to assist with opening and closing.<sup>33</sup> The best solution (and most expensive) may be to install a power door opener.
- There is no requirement for the opening force of exterior doors. However, 8.5 pounds of force is typically sufficient to keep the door closed and still be usable by persons with disabilities.
- Door width is often a problem for wheelchairs. There should be at least 32 inches of clear space for a wheelchair to get through. This is measured from the face of the door to the stop on the other side not including any door hardware.<sup>34</sup> Some doors that just barely fail to meet this criterion can be adjusted to gain that extra inch or two by using special hinges.
- If there is a door threshold with an abrupt change of more than ¼ inch, that is inaccessible. Either a new threshold or a covering ramp will need to be installed.

#### 5.3.6.7 *Stairs*

Based on reports to the federal Election Assistance Commission (EAC), stairs remain the greatest physical obstacle at our nation's polling places for both people in wheelchairs and those with difficulty walking. If access to a polling place or voting room within a polling place involves stairs, then there must be an alternate route to the voting room; otherwise, the site is not accessible.<sup>35</sup> There must be, either inside or outside the building, a ramp or ramps, or an accessible elevator, or a wheelchair lift that voters with limited mobility can

<sup>31</sup> See [ADA Voting Solutions for Polling Places](#).

<sup>32</sup> *Id.*

<sup>33</sup> See [ADA Voting Solutions for Polling Places](#).

<sup>34</sup> *Id.*

<sup>35</sup> See [ADA Checklist for Polling Places](#).



use to access the polling place. If an alternate route must be used, large signs directing voters with disabilities are needed.<sup>36</sup>

#### 5.3.6.8 *Inside the Polling Place*

The inside path of travel must meet the same guidelines as the path outside. Loose rugs, plush carpets, slick floors and the like can cause problems for people with wheelchairs, canes, and walkers. Further, floor surfaces must be stable, firm, and slip resistant.<sup>37</sup> Instruct officers of election to be sure that hallways and voting rooms are free of such hazards, and to make adjustments as needed.

#### 5.3.6.9 *Seating*

Every polling place should be furnished with seats for the use of elderly voters or those with mobility impairments. Even if the polling place has no waiting lines, seats should be available for those lawfully present who just need to rest.

### 5.3.7 Request for Assistance

The Virginia Voter Registration Application includes a box allowing voters with physical disabilities to so indicate. Registrars should attempt to contact voters who check this box to explain available accommodations such as voting curbside or absentee with an annual application. Be sure to communicate to the electoral board and officers of election any information needed to plan for election-day such as arrival time for curbside voting. The Attorney General issued an opinion in 2010 that voters may communicate a request for curbside voting to election officials in advance of coming to the polling place.<sup>38</sup>

### 5.3.8 Curbside Voting

Curbside voting does not satisfy or eliminate the requirement for an accessible entrance to the polling place that the voter can use at his option.



#### **Law Note on Curbside Voting**

The Attorney General's 2010 opinion stated that curbside voting assistance is triggered "by (i) entering the polling place to alert the officers of election, (ii) sending another person inside the polling place to alert the officers of election, or (iii) communicating with election officials in advance of coming to the polling place." For more information, see [2010 Op. Va. Att'y Gen. 46](#).

Curbside voting should be offered at every polling place possible! Consider the following steps for ensuring curbside voting goes smoothly:

- Clear and visible signage informing voters of the possibility of voting curbside, the location of the curbside voting, and how a voter is supposed to notify the election official that he/she is waiting curbside;

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> [2010 Op. Va. Att'y Gen. 46](#).





- A location that allows the curbside voter to obtain information from candidates and others campaigning outside the polling place;
- A method for the voter to announce his/her arrival (buzzer or bell system);
- Timely response from election officials inside the polling station, and delivery of the information that is provided to voters inside the polling location;
- A portable voting system that is accessible and allows the voter to cast his/her ballot privately and independently.<sup>39</sup>



#### Best Practice

Chief officers of election, or general registrars: assign an officer of election, election page, or volunteer to periodically check outside each polling location to make sure curbside voting is not needed.

### 5.3.9 Large Print Materials

The state must make available registration and voting aids, including the large print instruction posters in polling places and registrar's offices.<sup>40</sup>

Large print directional and instructional signs should help voters with limited sight navigate the polling place and the voting process. Pictures or symbols on signs are also helpful.

### 5.3.10 No Signature or Mark Required of Voter who is Blind



**No signature or mark is required for a voter who is blind to receive assistance at the polling place from an officer of election.**<sup>41</sup> Applications for voter registration, absentee ballots and other forms include specific instructions about the applicable signature requirements.

<sup>39</sup> For more information on signage and accessibility, see U.S. Dep't of Just., [The Americans With Disabilities Act, and Other Federal Laws Protecting the Rights of Voters with Disabilities](#) (Sept. 2014).

<sup>40</sup> [52 U.S.C. §20104](#).



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<sup>41</sup> See the Code of Virginia §24.2-649.

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## 5.4 OFFICER OF ELECTION TRAINING

Every training session for officers of election should include a section on working with persons with disabilities and operating the accessibility features of all voting equipment. Please emphasize these key best practices regarding interacting with the elderly or persons with disabilities in every training.



### Best Practice

Officers of election have the most face-to-face contact with voters with disabilities.

Please –

- ▲ *look out for* and *where possible remove* – **obstacles** in the polling place;
- ▲ *when needed*, assistance with door-opening;
- ▲ *when requested*, other means of helping;
- ▲ *remember* the **legal rights** of persons with disabilities **to ask for assistance** with ballot-marking – ask your chief officer of election or general registrar for a recap if you aren't sure;
- ▲ *keep an eye out for* people requesting to **vote curbside** (offered for voters aged 65 or older and voters with disabilities) and
- ▲ *be sensitive* to the needs of voters with disabilities.

Remember that people with disabilities want, expect, and deserve reasonable accommodations to give them equal access. If the best alternative cannot be done, then try for the next best alternative.

Treat people the **way you want** to be treated;

Speak **directly to the person**, not to his/her companion;

Change your position so you are **at eye level** with the person;

**Introduce yourself** by name;

Respect **personal space**; do not touch the person or the person's wheelchair, service animal, etc. without their prior consent or request;

**Ask** the person **to repeat** what he said (including *writing it, or verbally repeating, or paraphrasing*)

*Do not assume* someone who is deaf or hard of hearing or who has an intellectual disability requires you to speak loudly or slowly;

**Presume competence**;

Let people be independent; **ask before** providing assistance; let the person control his/her movements;

Do not ask questions focused on the person's condition and do not express sympathy or admiration or other feelings related to the person's disability;

Treat adults as adults and with respect;

Use **People-First Language**, which puts the *person before the disability* (e.g. Instead of "a table for a wheelchair is needed," say "a table for a person using a wheelchair needed").



## 5.5 LIMITATIONS

Adherence to ADA is a requirement of polling locations. If questions arise regarding any limitations on a locality's ability to comply with federal and state accessibility laws, they should be directed to the locality's attorney and administrators.<sup>42</sup>

## 5.6 ENFORCEMENT

### 5.6.1 Voting Accessibility for the Elderly and Handicapped (VAEHA)

Localities may be sued in a federal district court by either the United States Attorney General or any person who is personally aggrieved by the noncompliance by being prevented from registering to vote or casting a ballot. Before any person may sue a locality under this law, the complainant must first notify the Commissioner of Elections of the non-compliant condition and allow 45 days to pass before continuing the lawsuit. This law can be used to force a locality to remove an inaccessible condition, but not to award attorney's fees unless the fees were accumulated forcing a locality to comply with an original court judgment.<sup>43</sup>

### 5.6.2 Americans with Disabilities Act (ADA)

Complaints of ADA Title II violations may be filed with the Department of Justice within 180 days of the date of the discrimination. In certain situations, cases may be referred to a mediation program sponsored by the Department. The Department may bring a lawsuit where it has investigated a matter and has been unable to resolve violations.<sup>44</sup>

Title II may also be enforced through private lawsuits in federal court. It is not necessary to file a complaint with the Department of Justice or any other federal agency, or to receive a "right-to-sue" letter, before going to court.

### 5.6.3 Help America Vote Act (HAVA)

The United States Department of Justice's Civil Rights Division enforces HAVA.<sup>45</sup> Congress did not authorize private enforcement (via litigation) of the requirements of HAVA. Instead, HAVA directs private complaints into state administrative processes and reserves judicial enforcement to the Department of Justice.<sup>46</sup>



#### Regulation Note

##### 1VAC 20-20-40: Virginia's Help America Vote Act Plan

Virginia's plan under the Help America Vote Act of 2002, 42 USC § 15301 et seq., states policy of the board and performance goals for the board to document and measure.

<sup>42</sup> For more information from the Department of Justice on polling place accessibility requirements and the implementation of the Americans with Disabilities Act, see <https://www.justice.gov/usao-sc/civil-rights-laws-affirmative-civil-enforcement>.

<sup>43</sup> See [52 U.S.C. §20105](#).

<sup>44</sup> See [42 U.S.C. §12131](#).

<sup>45</sup> See [52 U.S.C. §21111](#).

<sup>46</sup> See [52 U.S.C. §21112](#).



#### 5.6.4 Virginians with Disabilities Act (VDA)

Any person with a disability whose rights, guaranteed under the VDA, have been violated can bring a claim in state circuit court. The court can order the defendant (locality) to make changes to its practice or procedures, pay for the plaintiff's legal fees, and award compensatory damages not including payments for pain and suffering.

Localities are liable for violating the VDA for up to one year from the violation of a person's rights if the person started the action or filed a complaint by registered mail within 180 days of the alleged violation.<sup>47</sup>

#### 5.6.5 Code of Virginia

Virginia's adequate facilities provision has no separate enforcement mechanism; like other election law requirements for local governments, ELECT and local electoral boards play an important role educating local governments. DOJ has brought enforcement actions against localities failing to meet federal law mandates.

### 5.7 RESOURCES

Registrars and electoral board members are not expected to be experts on building structural issues, machine technology for those with disabilities, or other assistive technologies. There are several places and agencies that can provide information and assistance with these issues. The following lists are just some of the resources available in Virginia.

#### 5.7.1 Election Assistance Commission (EAC) and Department of Justice (DOJ)

The federal Election Assistance Commission (EAC) publishes a helpful guide addressing polling place accessibility, election officer training and website accessibility. EAC has voter guides published in different languages, including Spanish, Chinese, Japanese, Korean, Tagalog, and Vietnamese.<sup>48</sup> The EAC website also provides other detailed reference materials on voting accessibility.<sup>49</sup>

The EAC provides quick start guides for local elections officials; we strongly recommend you check them out. This image is taken from Quick Start Series No. 15; you can find the link [here](#) and at the beginning of the chapter in *Resources*.

#### 1 Know the challenge

A disability is a condition (such as an illness or an injury) that damages or limits a person's physical or mental abilities.

Many disabilities are visible, but many others are not.

- From 1998 to 2008, the number of elderly voters doubled.
- 37.6 million adults have trouble hearing. 20.6 million have trouble seeing. 17.2 million have trouble walking. 75.4 million have trouble with at least one basic action.

<sup>47</sup> See the Code of Virginia [§51.5-46](#).

<sup>48</sup> Forms in alternate languages can be downloaded from the [EAC website](#).

<sup>49</sup> For more information on accessibility, please see the [EAC guide](#), and the [EAC voting accessibility website](#).





The United States Department of Justice provides compliance guidelines<sup>50</sup> in addition to a detailed polling place accessibility checklist with design standards, technical assistance materials and information about enforcement actions.<sup>51</sup>

### 5.7.2 ADA Information Line

The United States Department of Justice provides information about the Americans with Disabilities Act (ADA) through a toll-free ADA Information Line. This service permits businesses, state and local governments, or others to call and ask questions about general or specific ADA requirements including questions about the ADA Standards for Accessible Design.<sup>52</sup>

### 5.7.3 ADA Coordinators

The ADA may require local governments to appoint an ADA coordinator. This individual is most likely in the personnel or building inspections department of the local government. The local ADA coordinator may not be an expert on the technical aspects of ensuring accessibility, but he or she should be able to help with interpreting the law and with surveying potential or existing polling places to evaluate their accessibility.

### 5.7.4 ADA & IT Information Centers

The federally supported ADA & IT Information Center for the Mid-Atlantic Region provides training, information, and technical assistance on the Americans with Disabilities Act (ADA) and accessible information technology (IT) to businesses, consumers, schools, and government agencies within the Mid-Atlantic Region. Call 800-949-4232 or go to their website for more information.<sup>53</sup>

### 5.7.5 Centers for Independent Living

Virginia law also provides for government supported Centers for Independent Living, private, non-profit and community-based advocacy organizations staffed by persons with disabilities.<sup>54</sup> These agencies can provide advice and assistance with a wide variety of disability issues. There are many such centers in Virginia.<sup>55</sup>

### 5.7.6 Virginia Department for the Deaf and Hard of Hearing

This department can provide information about sign language, interpreters, special hearing devices, and communications issues: 1-800-552-7917.<sup>56</sup>

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<sup>50</sup> See [52 U.S.C. § 10303\(f\)](#), and [28 CFR 55](#). For more information, see the U.S. Dept. of Just. [voting section](#), and [guidelines](#).

<sup>51</sup> To access the U.S. Dept. of Just. accessibility checklist and standards, please visit the [ADA website](#).

<sup>52</sup> Please see the [ADA website](#) for more information on ADA requirements, assistance and claims.

<sup>53</sup> The [Mid-Atlantic ADA Center website](#) has more information on accessible information technology and training resources.

<sup>54</sup> See the Code of Virginia [§51.1-163](#).

<sup>55</sup> For more information on Centers for Independent Living, please visit their [website](#).

<sup>56</sup> Visit the Department for the [Deaf and Hard of Hearing website](#) for more information.





### 5.7.7 Virginia Department for the Blind and Vision-Impaired

This department can provide information about Braille accommodations, large print, recording on tapes, and other visual-assistive technologies: 1-800-622-2155.<sup>57</sup>

### 5.7.8 Virginia Assistive Technology System

This is a program of the Virginia Department of Rehabilitative Services. It is a statewide project working to increase awareness and accessibility of assistive technology through programs, information, and technical assistance. Its website includes an equipment finder. Call 1-800-552-5019 or see the Virginia Assistive Technology System website.<sup>58</sup>

### 5.7.9 Job Accommodation Network

[The Job Accommodation Network site](#) provides information on vendors and manufacturers of equipment and devices for people with disabilities: 1-800-526-7234.<sup>59</sup>

## 5.8 FUNDING ACCESSIBILITY IMPROVEMENTS

Electoral boards and registrar offices (like all public bodies) operate with limited resources. Below are suggestions to help afford accessibility improvements when the local governing body may be reluctant or unable to provide funding:

- Local Disability Services Boards may suggest grant money that can be used to make such purchases. Contact the local board to find out how to apply for funding.
- The Lions Clubs will often take on projects to provide aids for persons with vision and hearing impairments. Check with the local club(s) to see if they are willing to sponsor an election accessibility project.
- Many other community service organizations (e.g. Kiwanis, Rotary, and the like) may be willing to help.
- The federal government offers tax incentives for businesses to make their facilities more accessible to people with disabilities.
- Check with any of the agencies listed in the Resources section above. Many of the agencies have funds for purchasing assistive technology or know of inexpensive sources for these items.
- Consider sharing costs of such items with other government offices that can use them when they are not needed for elections.

<sup>57</sup> Visit the Department for the [Blind and Vision Impaired website](#) for more information.

<sup>58</sup> The Virginia Assistive Technology System website can be accessed [here](#).

<sup>59</sup> Click [here](#) to visit the Job Accommodation Network website.

